

REMARKS

Claims 1 to 26, 29, 34 and 35 have been canceled, without prejudice or disclaimer. Applicants have canceled claims 21 to 26, 34 and 35 in response to the latest Office Action. Applicants have written claims 27 and 36 in independent form with all of the limitations of claims 21 and 34, respectively, from which it originally depended. Thus, claims 27, 28, 30 to 33 and 36 to 46 are currently pending.

Attorney for Applicants maintains that this amendment should be entered, since it reduces the number of issues on appeal.

Claims 28 and 39 were rejected as being anticipated by Shih US Patent No. 6,124,010. However, Shih is directed to seaming foam sheets for sportswear and not the resilient floor covering required by claim 28 and claim 39, which depends from claim 28. It is not obvious that the structure for wader and diving products can withstand the punishment to which a floor covering is subjected. Therefore, claims 28 and 39 are patentable over Shih.

Claims 28, 30, 37, 39, 41, 42, 44 and 45 have been rejected as being obvious over MacLaine et al. in view of Winter US Patent No. 4,907,383. Claim 28 and the claims dependent thereon, including claims 30, 41, 42, 44 and 45, require the gluing surfaces to not be perpendicular to the first major surface. If one of ordinary skill in the art were to substitute the Winter joint for the MacLaine et al. joint, as suggested by the combination of MacLaine et al. and Winter, the resultant joint would not meet this limitation.

“It is impermissible within the framework of section 103 to pick and choose from any one reference only so much of it as will support a given position,

to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art.”

In re Wesslau, 53 CCPA 746, 750, 353 F.2d 238, 241 (1965). As clearly shown in Figure 5 of Winter, the adhesive 36 is applied to the two skins 22 and 24 and the core 12. In each of the Winter embodiments the portion of the core to which the adhesive is applied is perpendicular to the major surfaces. See Figures 4A to 4G, 5 and 6. Therefore, claims 28 and the claims dependent thereon are patentable over MacLaine et al. in view of Winter.

Claims 35, 37, 44 and 45 require “the gluing surfaces [to be] in a plane generally parallel to the axis of the roll.” This feature is not taught or suggested by the combination of MacLaine et al. in view of Winter. The seams in the MacLaine et al. sheets are longitudinal, i.e. the long edges of the sheets are adhered together. Therefore, when the sheets are rolled in to rolls 74, the plane of the seam, in which the gluing surfaces generally lie, is perpendicular to the axis of the roll, i.e. the plane of the seam bisects the roll into two rolls substantially one half the width of the seamed roll. Even if the seam of Winter were substituted for the seam of MacLaine et al., the plane of the seam, in which the gluing surfaces generally lie, is perpendicular to the axis of the roll. Therefore, claims 35, 37, 44 and 45 are patentable over MacLaine et al. in view of Winter.

Claims 27, 36, 40, 43 and 46 have been rejected as being obvious over MacLaine et al. and Winter in view of Pacione US Patent No. 6,298,624. The above-listed claims require a seamless wear layer and/or a seamless top coat. The top coat of Pacione is not seamless. The carpet 15, shown in Figure 4, which was reference by the Examiner, overlaps the hook covering 13, which overlies the joint 17 (see Figure 5). However, the

carpet 15 has a seam when the next carpet 15 is laid adjacent the carpet 15 shown in Figure 4. Therefore, claims 27, 36, 40, 43 and 46 are patentable over MacLaine et al. and Winter in view of Pacione.

Further, the top coat of the present invention is intended to be a UV-curable top coat and not a carpet. See page 3, lines 10 to 24, of the specification. Also, with regard to at least claim 28, which is directed to a resilient floor covering, "resilient flooring" is a term of art in which the flooring has a wearing surface that is non-textile. See the enclosed copy of ASTM F141 - 91.

Applicants submit that all the claims are believed to be in a condition for allowance. Reconsideration is respectfully requested.

Respectfully submitted,

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Standard Terminology Relating to Resilient Floor Coverings¹

This standard is issued under the fixed designation F 141; the number immediately following the designation indicates the year of original adoption or, in the case of revision, the year of last revision. A number in parentheses indicates the year of last reapproval. A superscript epsilon (ϵ) indicates an editorial change since the last revision or reapproval.

This standard has been approved for use by agencies of the Department of Defense. Consult the DoD Index of Specifications and Standards for the specific year of issue which has been adopted by the Department of Defense.

abrasion—a form of wear, in which a gradual removal of a flooring surface is caused by the frictional action of relatively fine hard particles. (1971)

asphalt tile—a floor surfacing unit composed of thermoplastic binder, asbestos fibers, mineral fibers, and pigments. The binder is essentially asphalt or hydrocarbon resins, or both, of coal tar and petroleum origin compounded with suitable plasticizers and stabilizers. (1972)

below-grade—a location for a floor structure which is in contact with the ground or with less than 18 in. of well ventilated space between the lower side of the floor and the ground, in which part or all of the floor is below ground level.

cork tile—a floor surfacing unit made from natural cork, thoroughly and uniformly bonded together. (1972)

cushioned vinyl flooring—any of the vinyl sheet floor coverings in which a foam layer is incorporated as part of the product thickness. (1974)

dimensional stability—the ability of a resilient flooring to retain its original dimensions during the service life of the product.

Discussion—This property is usually measured by: (1) *temperature-induced dimensional change*—the alteration in linear dimensions as a result of exposure to a significant variation in temperature followed by a return to original conditions; or (2) *moisture-induced dimensional change*—the alteration in linear dimensions as a result of exposure to a significant variation in moisture. (1977)

flexibility—that property of a resilient flooring which allows it to be deformed by bending or rolling without cracking, breaking or showing other permanent defects. (1972)

gouge—a form of wear, consisting of a wide groove deformation accompanied by material removal and penetrating a considerable distance below the immediate flooring surface. (1971)

homogeneous vinyl flooring—a floor surfacing unit in sheet or tile form composed of vinyl plastic binder and pigments with or without mineral fillers. The vinyl plastic binder is an essentially poly(vinyl chloride) resin, or a poly(vinyl chloride) copolymer resin compounded with suitable plasticizers and stabilizers. (1974)

inlaid sheet flooring—a floor surfacing material in which the pattern is formed by colored areas that extend from the

surface through to a backing, and that are bonded together and to the backing. (1974)

latex patching compound—a patching or leveling compound consisting of a latex (usually SBR rubber), portland cement and aggregate that is moisture, mildew and alkali resistant.

linoleum—a floor surfacing material composed of oxidized linseed oil, fossil, or other resins or rosin, or an equivalent oxidized oleoresinous binder, mixed with ground cork or wood flour, mineral filler and pigments, bonded to a burlap fiber or other suitable organic backing. It is made in either sheet or tile form. (1972)

machine direction—the direction in which a product moves through the manufacturing process. A specimen of resilient flooring is in the machine direction when it is aligned to be parallel to the direction in which it was processed.

polymeric poured (seamless) floors—a floor covering composed of polymeric material applied to the substrate in a liquid form alone, or in combination with mineral or plastic chips, pigments, desiccants, or fillers, which convert(s) to a thick built-up covering. (1973)

printed sheet vinyl flooring—a floor surfacing material in which the pattern is printed on a backing and protected with a wear layer of transparent or translucent vinyl plastic. (1974)

resilient flooring—an organic floor surfacing material made in sheet or tile form or formed in place as a seamless material of which the wearing surface is non-textile. The resilient floor covering classification by common usage includes, but is not limited to asphalt, cork, linoleum, rubber, vinyl, vinyl asbestos, and polymeric poured seamless floors. Resilient in this sense is used as a commonly accepted term, but does not necessarily define a physical property. (1972)

rotovinyl—a printed sheet vinyl flooring in which the pattern is printed by a rotogravure process. See also printed sheet vinyl flooring. (1974)

rubber flooring—a floor surfacing material in tile or sheet form, consisting of compounded natural rubber or synthetic rubber, or both, in combination with mineral fillers and pigments. (1972)

scratching—a form of wear, in which a minute groove-like break in a flooring surface is made by a rubbing contact with a tool or particle, the total deformation being confined to the most immediate surface level. (1971)

scuff—a form of wear, in which a mark, gall, roughness or other damage is caused by the rubbing of traffic bodies against a flooring surface and may involve deposition of a foreign material onto the flooring surface. (1971)

¹ These definitions are under the jurisdiction of ASTM Committee F-6 on Resilient Floor Coverings, and are the direct responsibility of Subcommittee F6.02 on Nomenclature.

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sheet, resilient flooring—flexible resilient flooring, packaged in roll form, in which the length substantially exceeds the width.

Discussion—Sheet flooring is usually manufactured in widths of 6 to 15 ft. with rolls being up to 150 ft. long to allow seamless installation in small rooms and minimize seams in large rooms.

solid vinyl flooring—See **homogeneous vinyl flooring**. (1974)

solid vinyl (homogeneous) tile—a resilient floor covering composed of binder, fillers, and pigments compounded with suitable stabilizers and processing aids. The binder consists of one or more polymers or copolymers of vinyl chloride and plasticizers which comprise at least 34 % by weight of the tile. The polymers or copolymers of vinyl chloride comprise at least 60 % of the weight of the binder.

subfloor—that structural layer intended to provide support for design loadings which may receive resilient floor coverings directly if the surface is appropriate or indirectly via an underlayment if its surface is not suitable. (1983)

subfloor underlayment—a structural floor system in which the upper surface is designed and constructed for the direct installation of resilient floor coverings.

terrazzo—a mosaic flooring made by embedding marble, onyx, granite, or glass in portland cement which is poured in place, then polished.

tile, resilient flooring—resilient flooring which is packaged in flat pieces which can be installed as individual units.

Discussion—Tiles are usually square, with sides of 9 to 24 in.; most

commonly 12 by 12 in. They can also be long and narrow, such as 4 by 36 in. (sometimes called "plank").

underlayment—that layer of material usually installed on or over a subfloor that provides a surface suitable to receive resilient floor coverings. (1983)

vinyl asbestos tile—a floor surfacing unit composed of vinyl plastic binder, asbestos fibers, mineral fillers, and pigments. The vinyl plastic binder is an essentially poly(vinyl chloride) resin or a poly(vinyl chloride) copolymer resin compounded with suitable plasticizers and stabilizers. (1972)

vinyl composition tile—a resilient floor covering composed of binder, fillers, and pigments. The binder shall consist of one or more resins of poly (vinyl chloride), or vinyl chloride copolymers, or both, compounded with suitable plasticizers and stabilizers. Other polymeric resins may be incorporated as part of the binder.

wear—the accumulative and integrative action of all the deleterious mechanical influences encountered in use which tend to impair a material's serviceability. Such influences include, but are not limited to abrasion, scratching, gouging and scuffing. (1971)

wear layer—the portion of a resilient floor covering that contains or protects the pattern effect. The wear layer does not include temporary finishes or maintenance coatings. (1979)

This standard is subject to revision at any time by the responsible technical committee and must be reviewed every five years and if not revised, either reapproved or withdrawn. Your comments are invited either for revision of this standard or for additional standards and should be addressed to ASTM Headquarters. Your comments will receive careful consideration at a meeting of the responsible technical committee, which you may attend. If you feel that your comments have not received a fair hearing you should make your views known to the ASTM Committee on Standards, 1916 Race St., Philadelphia, PA 19103.